THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2880 of 2007

Dated:17.07.2007

Between:

Kalli Venkatappa Reddy, S/o.Sri Late Veera Reddy.

…Petitioner

and

The State, rep.by its Principal Secretary to Govt.of A.P.,
Revenue Department, Secretariat, Hyderabad,
and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioner herein is aggrieved by the order of the second respondent, namely, Revenue Divisional Officer, Narasaraopet Division, Guntur District, bearing D.Dis.No.2567/06-A, dated 30.12.2006. He seeks a writ of mandamus invalidating the same. At the stage of admission itself, the Mandal Revenue Officer filed a counter affidavit opposing the Writ Petition. Therefore, the matter is heard finally, and is being disposed of.

The case of the petitioner in brief is as follows. Late Kalli Raghavamma was the owner and possessor of land in Survey Nos.185 (Ac.0.08 cents), 201/1C (Ac.1.25 cents), 225 (Ac.1.00), 317 (Acs.6.14 cents), 320 and 321/1 (Ac.1.25 cents), 654/1 (Ac.1.00), 657 (Acs.3.00) and 821 (Ac.1.30 cents). Raghavamma had only daughter, fourth respondent herein. The fourth respondent had four daughters, namely, Rama Kotamma, Sambrajyamma, Venkateswaramma and Shivamma. The petitioner is the son of Rama Kotamma. The petitioner's father, Veera Reddy, was allegedly brought by Hanumayamma as illatom son-in-law, and he is allegedly managing the property. Be that as it is, on an application made by Rama Kotamma, the mother of the petitioner, the third respondent issued pattadar pass books/title deeds (PPBs) in her favour in respect of an extent of land admeasuring Acs.5.22 cents, and in respect of land admeasuring Acs.5.30 cents in favour of the petitioner. After the death

of his mother, the petitioner made an application for mutating his name in respect of Acs.5.22 cents, which stood in the name of Rama Kotamma. The third respondent allegedly issued such proceedings, as a result of which, the petitioner is in occupation and cultivation of the land admeasuring Acs.10.52 cents, as alleged. In 2006, the fourth respondent approached the third respondent and submitted an application. After issuing notice to the petitioner, the third respondent passed orders on 19.01.2007 informing that the PPBs issued in favour of the petitioner was cancelled by the Revenue Divisional Officer on 30.12.2006. In this Writ Petition, the said order is assailed.

The third respondent in the counter affidavit alleges that after receiving an appeal petition filed by the fourth respondent for cancellation of PPBs in favour of the petitioner, the Mandal Revenue Officer conducted enquiry. The petitioner, the fourth respondent and other family members gave statements. After recording the statements, the Mandal Revenue Officer submitted a report to the Revenue Divisional Officer on 28.11.2006 whereafter the impugned order was passed cancelling the PPBs issued to the petitioner, after verifying the records. It is also stated that the Revenue Divisional Officer issued notice to all the concerned, and the notice issued to the petitioner could not be served, as he was not available in the Village.

Learned Counsel for the petitioner submits that the enquiry was conducted by the appellate authority behind the back, and therefore, the impugned order is in violation of principles of natural justice. Secondly, it is his submission that the Revenue Divisional Officer entertained the appeal after lapse of five years contrary to Section 5(5) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'), and therefore, the impugned order amounts to one without jurisdiction. **Opposing** the Writ Petition, the learned Assistant Government Pleader submits that after receiving the representation/appeal of the fourth respondent, the Revenue Divisional Officer directed the Mandal Revenue Officer to conduct enquiry. During the enquiry, the Mandal Revenue Officer issued a notice to the petitioner as well as the fourth respondent and recorded the statement given by the petitioner on 27.11.2006 as well as the statement given by the fourth respondent on 11.09.2006 and submitted a report. Therefore, he submits that principles of natural justice were strictly followed, and the impugned order does not suffer from any infirmity.

It is not a case of total ignorance of principles of natural justice. Whatever be the reason, the Revenue Divisional Officer directed the Mandal Revenue Officer to conduct enquiry, pursuant to which, after issuing notice, statements of the petitioner and the fourth respondent

were recorded by the Mandal Revenue Officer, who submitted the report. Therefore, the impugned order cannot be branded as a void order. Insofar as the submission based on limitation is concerned, the petitioner, as rightly pointed out by the learned Assistant Government Pleader, has an effective alternative remedy by way of a revision. The revisional authority, who is entrusted the duty of examining the proceedings and orders of recording authority or the appellate authority as to their legality propriety or validity can as well take such points into consideration, and if convinced, can remand the matter to the original authority. In view of this, and also in view of the fact that the petitioner and the fourth respondent are closely related, this Court is not inclined to interfere at this stage. However, this Court observes that in the impugned order while cancelling PPBs in favour of the petitioner, the Revenue Divisional Officer also directed to handover the crop for the last five years. Such an order is not contemplated under the provisions of the Act or the Rules made thereunder. This should be kept in mind by the revisional authority.

At the stage of admission itself, notice was ordered to the fourth respondent duly permitting the learned Counsel for the petitioner to take out personal notice. Accordingly, notice was taken out, and in spite of service of notice, none appears for the fourth respondent, and she is also not present in the Court. Therefore, there shall be *status quo* as on today with regard to the possession, as well as direction issued by the Revenue Divisional Officer for handing over crop for the last five years. The petitioner is given two weeks time for filing revision before the jurisdictional Joint Collector, who is directed to dispose of the said revision within a period of four weeks thereafter after giving notice to the fourth respondent keeping in view the provisions of the Act and the Rules.

The Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

17.07.2007

Note: Issue C.C by 23.07.2007.

B/o.

vs